

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

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ADRIANA VILLA,

Plaintiff,

v.

Case No.:

Jury Demanded

EMPIRE TRUCK LINES, INC.,  
DAIMLER TRUST d/b/a EMPIRE TRUCK LINES, INC.,  
and GENE AUTRY BARCLAY, JR.,

Defendants.

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NOTICE OF REMOVAL

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COME NOW the Defendants, Empire Truck Lines, Inc. and Gene Autry Barclay, Jr. (hereinafter collectively referred to as "Defendants"), pursuant to 28 U.S.C. §§ 1441 *et seq.*, and file this Notice of Removal without waiver of any defenses or grounds for removal of the above styled case originally filed by the Plaintiff in the Circuit Court of the Thirtieth Judicial District for Shelby County, Tennessee. Defendants hereby petition to remove this action to the United States District Court for the Western District of Tennessee which is the judicial district in which the action is pending. In support of this Notice, Defendants state as follows:

I.

STATE COURT ACTION

1. On October 16, 2017, Plaintiff filed a Complaint against Defendants in the Circuit Court of the Thirtieth Judicial District styled *Adrianna Villa v. Empire Truck Lines, Inc., Daimler Trust d/b/a Empire Truck Lines, Inc. and Gene Autry Barclay Jr.*, Case No. CT-004227-17.

2. A copy of the Complaint filed in the State Court action is attached hereto and made a part hereof by reference as part of Collective Exhibit 1.

3. As alleged in the Complaint, Plaintiff is a resident of Memphis, Shelby County, Tennessee. See Exhibit 1 - Complaint, ¶ 1.

4. Defendant Empire Truck Lines, Inc. is now, and was at the time of the filing of the Complaint, a Texas corporation with its principal place of business in Houston, Texas. See Exhibit 1 - Complaint, ¶ 2 and page 6.

5. Defendant Daimler Trust is a statutory trust organized and existing by virtue of the laws of the State of Delaware with its principal place of business in the State of Michigan. See Exhibit 1 - Complaint, ¶ 3.

6. Gene Autry Barclay, Jr. is an individual citizen of the State of Texas and domiciled in the State of Texas and intends to remain domiciled in Texas for the foreseeable future. See Exhibit 1 - Complaint, page 6.

## II.

### BASIS FOR REMOVAL

7. Removal is proper because complete diversity of citizenship exists between Plaintiff and all defendants in the Complaint and the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs. See 28 U.S.C. § 1332, 1441(a). Each defendant named in the Complaint is a citizen of a different state than Plaintiff. See 28 U.S.C. § 1332(a). Plaintiff is a citizen of Tennessee, Empire Truck Lines, Inc. and Gene Autry Barclay, Jr. are citizens of Texas, and Daimler Trust is a citizen of Delaware and/or Michigan. The Complaint seeks \$800,000 in alleged damages. See Exhibit 1 - Complaint, page 5, ¶ 2.

8. This court therefore has original jurisdiction over this matter, and Defendants have a statutory right to remove the State Court action. Accordingly, Defendants hereby remove the action to this federal court.

9. This Notice of Removal is being filed within thirty (30) days after Defendants received notice of the Complaint and is thus timely filed under 28 U.S.C. § 1446(b).

10. Defendants will give written notice of the filing of this notice to Plaintiff, as required by 28 U.S.C. § 1446(d).

11. A copy of this notice will be filed with the clerk for the Circuit Court of Tennessee for the Thirtieth Judicial District at Memphis, located in Memphis, Tennessee, as required by 28 U.S.C. § 1446(d).

12. Copies of all documents previously filed or served upon Defendants in the State Court action are attached hereto as Collective Exhibit 1.

13. The undersigned counsel consulted with in-house counsel for Daimler Trust, and Daimler Trust gave permission to remove this action to federal court.

WHEREFORE, Defendants respectfully pray that the above-entitled action now pending against them in the Circuit Court of Tennessee for the Thirtieth Judicial District at Memphis, proceed in this Court as an action properly removed hereto.

Respectfully Submitted,

BLACK MCLAREN JONES RYLAND & GRIFFEE, P.C.

By: /s/ William E. Cochran, Esq.  
William E. Cochran, Jr. #21428  
Warren P. Campbell #30096  
530 Oak Court Drive, Suite 360  
Memphis, Tennessee 38103  
(901) 762-0535 Telephone  
(901) 762-0539 Telecopier  
wcochran@blackmclaw.com  
wcampbell@blackmclaw.com  
*Attorneys for Empire Truck Lines, Inc.  
and Gene Autry Barclay, Jr.*

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been served on Counsel for Plaintiff, Daryl A. Gray, Esq., 10555 Lake Forest Blvd., Suite 9C, New Orleans, LA 70127, this 14<sup>th</sup> day of November, 2017, via first class mail.

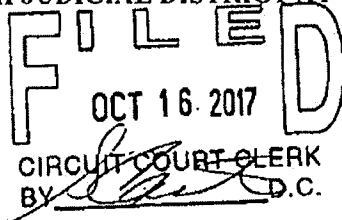
/s/ William E. Cochran, Esq.

IN THE CIRCUIT COURT OF TENNESSEE FOR THE  
THIRTIETH JUDICIAL DISTRICT AT MEMPHIS, SHELBY COUNTY

ADRIANA VILLA,  
PLAINTIFF

V.

EMPIRE TRUCK LINES, INC.,  
DAIMLER TRUST d/b/a EMPIRE TRUCK LINES, INC.  
AND GENE AUTRY BARCLAY, JR.,  
DEFENDANTS



CASE NO: CT-004227-17

DIVISION: VII

DOCKET NO.:

JURY DEMANDED

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COMPLAINT

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COMES NOW the Plaintiff, Adrianna Villa, by and through her attorney Daryl Andre Gray and files this Complaint and hereby asserts the following causes of action against the Defendants, EMPIRE TRUCK LINES, INC., DAIMLER TRUST d/b/a EMPIRE TRUCK LINES, INC., AND GENE AUTRY BARCLAY, JR.

JURISDICTION AND VENUE

1. Adriana Villa is and was at all times pertinent to this cause of action, an adult resident of Memphis, Shelby County, Tennessee.
2. The named Defendant, Empire Truck Lines, Inc. ("Empire"), is a Texas corporation conducting significant business transactions in the state of Tennessee, and specifically transporting a significant amount of goods through the City of Memphis, State of Tennessee.
3. The named Defendant, Daimler Trust d/b/a Empire Truck Lines, Inc. ("Daimler"), is a Delaware company authorized to do and doing business in Shelby County in the City of Memphis, State of Tennessee.
4. The named Defendant, Gene Autry Barclay, Jr, was in the course and scope of his employment with Empire and/or Daimler at all times relevant to this action.

5. The incident took place in Memphis, Shelby County, Tennessee, injured a resident of Memphis, Shelby County, Tennessee, and was caused by the negligence of these defendants.

#### FACTS

6. On or about October 29, 2016, Plaintiff, Adriana Villa, was the driver of a 2010 Dodge Challenger.
7. The vehicle Plaintiff was driving was in the proper lane of travel, observing traffic signs, and was being operated in a safe and prudent manner north bound on Ridgeway Road.
8. At the same time and place, Defendant, Gene Autry Barclay, Jr was driving a 2016 Freightliner Truck owned by Daimler and/or Empire when he struck the left side of the Plaintiff's vehicle.
9. Upon information and belief, Defendant, Empire, at all times relevant hereto, was the direct employer of Gene Autry Barclay, Jr.
10. Plaintiff alleges that as a direct and proximate result of the actions and/or inactions of Gene Autry Barclay, Jr. and his employer Empire and/or Daimler, the Plaintiff suffered severe and permanent damages and injuries.

#### NEGLIGENCE

11. Plaintiff charges and alleges that the Defendant Driver, Gene Autry Barclay, Jr was guilty of the following acts of common law negligence, each of which was a direct and proximate cause of Plaintiff's resulting injuries and damages, to wit:
  - a. Negligently failing to exercise that degree of care and caution required of a reasonable and prudent person under the same or similar circumstances;
  - b. Negligently failing to maintain proper control of a vehicle;
  - c. Negligently failing to maintain a proper lookout;

- d. Negligently failing to avoid the occurrence of the collision, which could have been avoided with the exercise of ordinary reasonable care, and the defendant failed to exercise such care.
  - e. Negligently failing to devote full time and attention to the operation of the freightliner truck he was operating at the time of this crash;
  - f. Gross negligence in the careless, reckless, unlawful, and negligent driving and operation of said vehicle with complete indifference to the consequences.
  - g. Negligence per se in that Plaintiff was in the class sought to be protected by the applicable state laws and city ordinances and said negligence per se is a direct and proximate cause of the collision at issue and Plaintiff's resulting injuries and damages;
  - h. Negligently operating a vehicle in an improper manner on the roadway;
  - i. Negligently failing to exercise ordinary and reasonable care to avoid said collision;
  - j. Negligently failing to drive an automobile with due regard for the safety of all other persons on the roadway; and
  - k. Negligently failing to drive an automobile with due regard for the safety of all other persons on the roadway.
12. Plaintiff further charges and alleges that at the time of the collision in question, the following City Ordinances and Statutes of the State of Tennessee were in full force and effect and were violated by Defendant, each and every such act constituting a direct and proximate cause or direct contributing proximate cause of the injuries and damages to Plaintiffs, to wit:

**CITY ORDINANCES**

Section 24-116     **Duty to devote full time and attention to operation of a vehicle.**

Section 24-117     **Duty to drive at a safe speed, maintain a proper lookout and keep the vehicle under control.**

**STATUTE OF THE STATE OF TENNESSEE**

Section 55-8-103 **Required Obedience to Traffic Laws**

Section 55-8-110 **Traffic Control Signal**

Section 55-10-205 **Reckless Driving**

Section 55-8-136 **Driver to exercise Due Care**

13. Plaintiff further charges and alleges that Defendant's aforesaid acts of common law negligence and violations of City Ordinance and Statutes of the State of Tennessee constitute negligence per se in that Plaintiff was in the class sought to be protected by the legislation and said negligence per se is a direct and proximate cause of the collision at issue and Plaintiff's resulting injuries and damages.
14. Plaintiff further charges and alleges that Empire Truck Lines, Inc. and/or Daimler negligently hired, inadequately trained, negligently supervised and negligently retained Gene Autry Barclay, Jr and therefore, Empire Truck Lines, Inc.'s actions and/or failure to act were the direct and proximate cause of Plaintiff's injuries.
15. Plaintiff further alleges that Empire Truck Lines, Inc. was negligent for retaining the service off/or contracting with Gene Autry Barclay, Jr to transport goods within the state of Tennessee and is therefore the direct and proximate cause of Plaintiffs injuries.
16. Plaintiff further alleges that Daimler Trust is jointly liable for the negligence of Empire Truck Lines, Inc., and Gene Autry Barclay, Jr.

**INJURIES AND DAMAGES**

17. Plaintiff charges and alleges that as a direct and proximate result of one, some or all of the aforesaid acts of negligence and statutory violations on the part of the Defendants, that the plaintiff has suffered severe injuries and damages, including but not limited to:
  1. Extensive physical injuries;
  2. Medical expenses;
  3. Past, present, and future physical pain and suffering;

4. Past, present, and future mental anguish;
5. Past, present, and future loss of enjoyment of life;
6. Severe fright and shock; and
7. Out of pocket expenses.

18. Plaintiff charges and alleges that as a direct and proximate result of the negligence on the part of the Defendant, Plaintiff, received serious and painful injuries requiring medical attention and treatment. Plaintiff further alleges that doctors and medical bills were incurred in an effort to relieve the pain, suffering, and discomfort associated with Plaintiff's injuries. Plaintiff submits that all doctor and medical bills so incurred were reasonable and necessary for the treatment of the injuries and that Plaintiff will in the future require further medical treatment and will incur additional medical bills to treat said injuries.

**WHEREFORE, PREMISES CONSIDERED,** Plaintiff respectfully prays:

1. That proper process issue against the Defendants requiring them to plead and answer;
2. That Plaintiff, Adriana Villa be awarded judgment against the Defendants in the amount that truth dictates and justice demands and not to exceed **EIGHT HUNDRED THOUSAND DOLLARS (\$800,000)**, for actual compensatory and punitive damages for the Defendants' gross willful and wanton negligence;
3. That Plaintiff be granted such other relief, general or specific, that this Court deems equitable and just;
4. That the costs of this action be awarded to Plaintiff;
5. That a jury be empaneled to try these issues when joined.

Respectfully Submitted,



**DARYL A. GRAY, ESQ. (TBPR 27781)**

Attorney for Plaintiff

10555 Lake Forest Blvd., Suite 9C

New Orleans, LA 70127

Telephone: (504) 264-5552

Facsimile: (504) 264-5581

Email: daryl@gograylaw.com

**PLEASE SERVE:**

Please Issue Citation and a Certified Copy of this Complaint for Long Arm Service directed to:

GENE AUTRY BARCLAY JR

5205 Fairbanks Drive

Apt. 40

El Paso, TX 79924

Please Issue Citation and a Certified Copy of this Complaint for Long Arm Service directed to:

EMPIRE TRUCK LINES, INC.

Through its Registered Agent:

David R. Acker

10043 Wallisville Rd.,

Houston, TX 77013

DAIMLER TRUST

Through its Registered Agent:

CT Corporation System

800 Gay Street, Ste. 2021

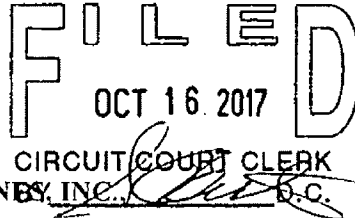
Knoxville, TN 37929

IN THE CIRCUIT COURT OF TENNESSEE FOR THE  
THIRTIETH JUDICIAL DISTRICT AT MEMPHIS, SHELBY COUNTY

ADRIANA VILLA,  
PLAINTIFF

V.

EMPIRE TRUCK LINES, INC.,  
ET. AL.



CASE NO: CT-004227-17

DIVISION: VII

DOCKET NO.:  
JURY DEMANDED

COST BOND

Pursuant to TCA 20-12-120 et. seq., I hereby acknowledge myself as surety for the costs in the above styled cause for an amount not to exceed \$500.00.

This the 11<sup>th</sup> day of October, 2017.

GRAY LAW GROUP, LLC  
Firm

Darvl A. Gray # 27781  
By: Attorney / BPR No.

A handwritten signature in cursive script, appearing to read "Darvl A. Gray", written over a horizontal line.

By: Attorney

1331 Union Avenue, Ste. 1049  
Address

Memphis, TN 38104  
City, State, Zip

(901) 440-4444  
Telephone

(CIRCUIT/CHANCERY) COURT OF TENNESSEE  
140 ADAMS AVENUE, MEMPHIS, TENNESSEE 38103  
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

**FILED**  
NOV 01 2017

## SUMMONS IN CIVIL ACTION

Docket No. CT-004227-17

☐ Lawsuit  
☐ Divorce

CIRCUIT COURT CLERK  
BY \_\_\_\_\_ D.C.  
Ad Damnum \$ \_\_\_\_\_

ADRIANA VILLA

VS

EMPIRE TRUCK LINES, INC.,  
DAIMLER TRUST d/b/a EMPIRE TRUCK  
LINES, INC., and GENE AUTRY BARCLAY,  
JR.

Plaintiff(s)

Defendant(s)

TO: (Name and Address of Defendant (One defendant per summons))

Daimler Trust  
Through its Registered Agent:  
CT Corporation System  
800 Gay Street, Ste. 2021  
Knoxville, TN 37929

Method of Service:

- ☐ Certified Mail  
☐ Shelby County Sheriff  
☐ Commissioner of Insurance (\$)  
☐ Secretary of State (\$)  
☒ Other TN County Sheriff (\$)  
☐ Private Process Server  
☐ Other

(\$ Attach Required Fees

You are hereby summoned and required to defend a civil action by filing your answer with the Clerk of the Court and

serving a copy of your answer to the Complaint on Daryl A. Gray

Plaintiff's

attorney, whose address is 10555 Lake Forest Blvd., Ste. 9C, New Orleans, LA 70127

telephone (504) 264-5552

within THIRTY (30) DAYS after this summons has been served upon you, not including the day of service. If you fail to do so, a judgment by default may be taken against you for the relief demanded in the Complaint.

JIMMY MOORE, Clerk / DONNA RUSSELL, Clerk and Master

TESTED AND ISSUED

10-16-17

By

D.C.

TO THE DEFENDANT:

NOTICE: Pursuant to Chapter 919 of the Public Acts of 1980, you are hereby given the following notice:

Tennessee law provides a ten thousand dollar (\$10,000) personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the Clerk of the Court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed. These include items of necessary wearing apparel (clothing) for yourself and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible and school books. Should any of these items be seized, you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer.

FOR AMERICANS WITH DISABILITIES ACT (ADA) ASSISTANCE ONLY, CALL (901) 222-2341

I, JIMMY MOORE / DONNA RUSSELL, Clerk of the Court, Shelby County, Tennessee, certify this to be a true and accurate copy as filed this

20

JIMMY MOORE, Clerk / DONNA RUSSELL, Clerk and Master By: \_\_\_\_\_ D.C.

**KNOX COUNTY SHERIFF'S OFFICE**

KNOXVILLE, TENNESSEE

NO 178777

RECEIVED Grand River Grains LLC 10-23 2017 \$ 42.00 ☐  
ADDRESS 105515 Lake Forest Dr. Bluffs, New Orleans, LA 70117  
WARRANT # CT00422717 REFUND CK. # \_\_\_\_\_ REFUND \$ \_\_\_\_\_ ☐  
COUNTY Shelby ATTEMPTED SER. FEE \$ \_\_\_\_\_ ☐  
STATE W BY CLERK MC CHECK # 2702

ELECTRONICALLY FILED  
2017 Nov 09 3:05 PM  
CLERK OF COURT

IN THE CIRCUIT COURT OF TENNESSEE FOR THE THIRTIETH JUDICIAL  
DISTRICT AT MEMPHIS

---

ADRIANA VILLA,

Plaintiff,

v.

Docket No.: CT-004227-17

Div. VII

Jury Demanded

EMPIRE TRUCK LINES, INC.,  
DAIMLER TRUST d/b/a EMPIRE TRUCK LINES, INC.,  
and GENE AUTRY BARCLAY, JR.,

Defendants.

---

NOTICE OF APPEARANCE

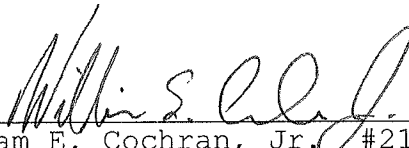
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COME NOW William E. Cochran, Jr., Warren P. Campbell, and  
Black McLaren Jones Ryland and Griffie, P.C., and file this Notice  
of Appearance on behalf of Empire Truck Lines, Inc. and Gene Autry  
Barclay, Jr., without waiving any substantive or procedural  
rights. The undersigned requests that any pleadings be sent to  
them.

Respectfully Submitted,

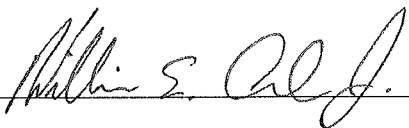
BLACK MCLAREN JONES RYLAND & GRIFFEE, P.C.

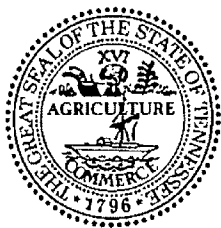
By:

  
William E. Cochran, Jr. #21428  
Warren P. Campbell #30096  
530 Oak Court Drive, Suite 360  
Memphis, Tennessee 38103  
(901) 762-0535 Telephone  
(901) 762-0539 Telecopier  
wcochran@blackmclaw.com  
wcampbell@blackmclaw.com  
Attorneys for Empire Truck Lines, Inc.  
and Gene Autry Barclay, Jr.

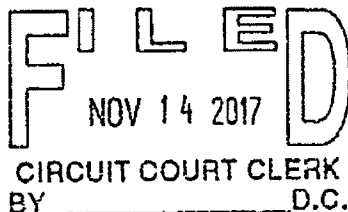
CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been served on Daryl A. Gray, Esq., 10555 Lake Forest Blvd., Suite 9C, New Orleans, LA 70127, this 9th day of November, 2017.





Tre Hargett  
Secretary of State



Division of Business Services  
Department of State  
State of Tennessee  
312 Rosa L. Parks AVE, 6th FL  
Nashville, TN 37243-1102

### AFFIDAVIT AND ENDORSEMENT

Case #: CT-004227-17

11/06/2017

Certified #: 70171450000228686090

SOS Summons #: 04940299

RE: ADRIANA VILLA

VS: EMPIRE TRUCK LINES INC, DAIMLER TRUST D/B/A EMPIRE TRUCK LINES INC, AND  
GENE AUTRY BARCLAY JR

I, ANNE HACKNEY, having been duly authorized by Tre Hargett, Secretary of State of Tennessee, do hereby make oath on his behalf and under authorization as follows:

That on 10/23/2017, I received from the plaintiff the original and certified copies of the process, notice or demand issued against BARCLAY, GENE AUTRY JR whose address is: 5205 FAIRBANKS DRIVE, EL PASO, TX 79924, and that on 10/24/2017, I mailed by registered or certified return-receipt mail the certified copies of the process, notice, or demand to the above address together with a written notice that service was made.

I further make oath that the registered or certified letter was not delivered but was returned to my office on 11/06/2017 containing the notation "ATTEMPTED - NOT KNOWN" and returned to SHELBY COUNTY - CIRCUIT COURT of MEMPHIS, TN on 11/06/2017.

Tre Hargett  
Secretary of State

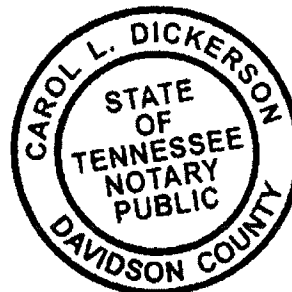
By: Anne Hackney

Sworn to and subscribed before me this

6 day of November, 2017

Notary Public

My Commission Expires: 5-03-2021



(CIRCUIT/CHANCERY) COURT OF TENNESSEE  
140 ADAMS AVENUE, MEMPHIS, TENNESSEE 38103  
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

## SUMMONS IN CIVIL ACTION

Docket No. CI-004227-17
☒ Lawsuit  
☐ Divorce

Ad Damnum \$ \_\_\_\_\_

ADRIANA VILLA

VS

EMPIRE TRUCK LINES, INC.,  
DAIMLER TRUST d/b/a EMPIRE TRUCK  
LINES, INC., and GENE AUTRY BARCLAY,  
JR.

Plaintiff(s)

Defendant(s)

TO: (Name and Address of Defendant (One defendant per summons))

Gene Autry Barclay, Jr.  
5205 Fairbanks Drive  
Apt. 40  
El Paso, TX 79924

Method of Service:

- ☐ Certified Mail  
☐ Shelby County Sheriff  
☐ Commissioner of Insurance (\$)  
☒ Secretary of State (\$)  
☐ Other TN County Sheriff (\$)  
☐ Private Process Server  
☐ Other

(\$ Attach Required Fees

You are hereby summoned and required to defend a civil action by filing your answer with the Clerk of the Court and

serving a copy of your answer to the Complaint on Daryl A. Gray

Plaintiffs

attorney, whose address is 10555 Lake Forest Blvd., Ste. 9C, New Orleans, LA 70127

telephone (504) 264-5552 within THIRTY (30) DAYS after this summons has been served upon you, not including the day  
of service. If you fail to do so, a judgment by default may be taken against you for the relief demanded in the Complaint.

JIMMY MOORE, Clerk / DONNA RUSSELL, Clerk and Master

TESTED AND ISSUED

10-16-17

By

, D.C.

TO THE DEFENDANT:

NOTICE: Pursuant to Chapter 919 of the Public Acts of 1980, you are hereby given the following notice:

Tennessee law provides a ten thousand dollar (\$10,000) personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the Clerk of the Court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed. These include items of necessary wearing apparel (clothing) for yourself and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible and school books. Should any of these items be seized, you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer.

FOR AMERICANS WITH DISABILITIES ACT (ADA) ASSISTANCE ONLY, CALL (901) 222-234

I, JIMMY MOORE / DONNA RUSSELL, Clerk of the Court, Shelby County, Tennessee, certify this to be a true and accurate copy filed this

10-16 2017

JIMMY MOORE, Clerk / DONNA RUSSELL, Clerk and Master

By

, D.C.

RECEIVED  
OCT 23 AM 8:52  
THE HANCOCK  
SECRETARY OF STATE

RETURN OF SERVICE OF SUMMONS

I HEREBY CERTIFY THAT I HAVE SERVED THE WITHIN SUMMONS:

By delivering on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ M. a copy of the summons  
and a copy of the Complaint to the following Defendant \_\_\_\_\_  
at \_\_\_\_\_

\_\_\_\_\_  
Signature of person accepting service

By: \_\_\_\_\_  
Sheriff or other authorized person to serve process

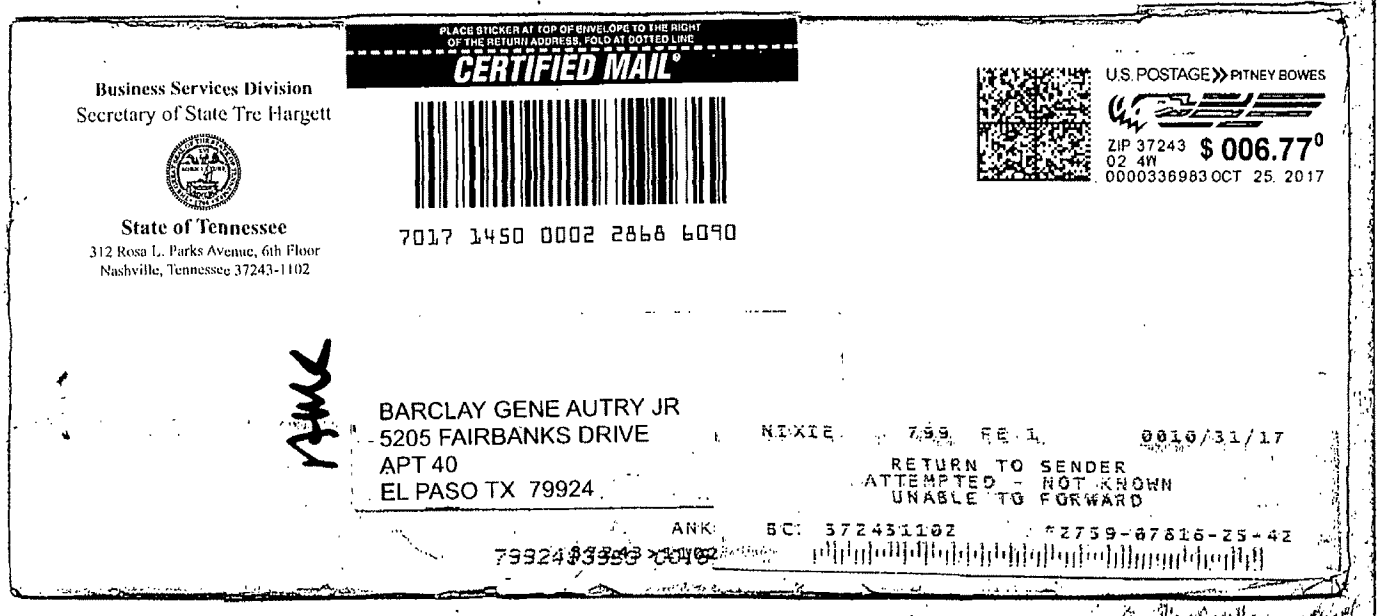
RETURN OF NON-SERVICE OF SUMMONS

I HEREBY CERTIFY THAT I HAVE NOT SERVED THE WITHIN SUMMONS:

To the named Defendant \_\_\_\_\_  
because \_\_\_\_\_ is (are) not to be found in this County after diligent search and inquiry for the following  
reason(s): \_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_  
Sheriff or other authorized person to serve process



SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY												
<p><input checked="" type="checkbox"/> Complete items 1, 2, and 3.</p> <p><input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you.</p> <p><input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.</p>	<p>A. Signature <span style="float: right;"><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</span></p> <p><b>X</b></p>												
<p>1. Article Addressed to:</p> <p>BARCLAY GENE AUTRY JR 5205 FAIRBANKS DRIVE APT 40 EL PASO TX 79924</p>	<p>B. Received by (Printed Name) C. Date of Delivery</p>												
<p>9590 9402 2296 6225 9282 18</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>												
<p>2. <small>Transfer from carrier label</small></p> <p>7017 1450 0002 2868 6090</p>	<p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> </table>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery
<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®												
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™												
<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery												
<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise												
<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™												
<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery												

(CIRCUIT/CHANCERY) COURT OF TENNESSEE  
140 ADAMS AVENUE, MEMPHIS, TENNESSEE 38103  
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

## SUMMONS IN CIVIL ACTION

Docket No. CI-004227-17
☒ Lawsuit  
☐ Divorce

Ad Damnum \$ \_\_\_\_\_

ADRIANA VILLA

VS

EMPIRE TRUCK LINES, INC.,  
DAIMLER TRUST d/b/a EMPIRE TRUCK  
LINES, INC., and GENE AUTRY BARCLAY,  
JR.

Plaintiff(s)

Defendant(s)

TO: (Name and Address of Defendant (One defendant per summons))

Empire Truck Lines, Inc.  
Through its Registered Agent:  
David R. Acker  
10043 Wallisville Rd.  
Houston, TX 77013

Method of Service:

- ☒ Certified Mail  
☐ Shelby County Sheriff  
☐ Commissioner of Insurance (\$)  
☐ Secretary of State (\$)  
☐ Other TN County Sheriff (\$)  
☐ Private Process Server  
☐ Other

(\$ ) Attach Required Fees

You are hereby summoned and required to defend a civil action by filing your answer with the Clerk of the Court and

serving a copy of your answer to the Complaint on Daryl A. Gray

Plaintiff's

attorney, whose address is 10555 Lake Forest Blvd., Ste. 9C, New Orleans, LA 70127

telephone (504) 264-5552 within THIRTY (30) DAYS after this summons has been served upon you, not including the day  
of service. If you fail to do so, a judgment by default may be taken against you for the relief demanded in the Complaint.

JIMMY MOORE, Clerk / DONNA RUSSELL, Clerk and Master

TESTED AND ISSUED 10-16-17By [Signature], D.C.

TO THE DEFENDANT:

NOTICE; Pursuant to Chapter 919 of the Public Acts of 1980, you are hereby given the following notice:

Tennessee law provides a ten thousand dollar (\$10,000) personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the Clerk of the Court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed. These include items of necessary wearing apparel (clothing) for yourself and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible and school books. Should any of these items be seized, you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer.

FOR AMERICANS WITH DISABILITIES ACT (ADA) ASSISTANCE ONLY, CALL (901) 222-2341

I, JIMMY MOORE / DONNA RUSSELL, Clerk of the Court, Shelby County, Tennessee, certify this to be a true and accurate copy as filed this

10-16 2017

JIMMY MOORE, Clerk / DONNA RUSSELL, Clerk and Master

By [Signature], D.C.

RETURN OF SERVICE OF SUMMONS

I HEREBY CERTIFY THAT I HAVE SERVED THE WITHIN SUMMONS:

By delivering on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ M. a copy of the summons

and a copy of the Complaint to the following Defendant \_\_\_\_\_

at \_\_\_\_\_

\_\_\_\_\_  
Signature of person accepting service

By: \_\_\_\_\_  
Sheriff or other authorized person to serve process

RETURN OF NON-SERVICE OF SUMMONS

I HEREBY CERTIFY THAT I HAVE NOT SERVED THE WITHIN SUMMONS:

To the named Defendant \_\_\_\_\_

because \_\_\_\_\_ is (are) not to be found in this County after diligent search and inquiry for the following

reason(s): \_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_  
Sheriff or other authorized person to serve process

(CIRCUIT/CHANCERY) COURT OF TENNESSEE  
140 ADAMS AVENUE, MEMPHIS, TENNESSEE 38103  
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

## SUMMONS IN CIVIL ACTION

Docket No. CT-004227-17
☒ Lawsuit  
☐ Divorce

Ad Damnum \$ \_\_\_\_\_

ADRIANA VILLA

VS

EMPIRE TRUCK LINES, INC.,  
DAIMLER TRUST d/b/a EMPIRE TRUCK  
LINES, INC., and GENE AUTRY BARCLAY,  
JR.

Plaintiff(s)

Defendant(s)

TO: (Name and Address of Defendant (One defendant per summons))

Empire Truck Lines, Inc.  
Through its Registered Agent:  
David R. Acker  
10043 Wallisville Rd.  
Houston, TX 77013

Method of Service:

- ☒ Certified Mail  
☐ Shelby County Sheriff  
☐ Commissioner of Insurance (\$)  
☐ Secretary of State (\$)  
☐ Other TN County Sheriff (\$)  
☐ Private Process Server  
☐ Other

(\$ Attach Required Fees

You are hereby summoned and required to defend a civil action by filing your answer with the Clerk of the Court and

serving a copy of your answer to the Complaint on Daryl A. Gray Plaintiff's

attorney, whose address is 10555 Lake Forest Blvd., Ste. 9C, New Orleans, LA 70127

telephone (504) 264-5552 within THIRTY (30) DAYS after this summons has been served upon you, not including the day of service. If you fail to do so, a judgment by default may be taken against you for the relief demanded in the Complaint.

JIMMY MOORE, Clerk / DONNA RUSSELL, Clerk and Master

TESTED AND ISSUED

10-16-17

By

, D.C.

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NOTICE: Pursuant to Chapter 919 of the Public Acts of 1980, you are hereby given the following notice:

Tennessee law provides a ten thousand dollar (\$10,000) personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the Clerk of the Court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed. These include items of necessary wearing apparel (clothing) for yourself and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible and school books. Should any of these items be seized, you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer.

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10-16 2017

JIMMY MOORE, Clerk / DONNA RUSSELL, Clerk and Master

By

, D.C.

RETURN OF SERVICE OF SUMMONS

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By delivering on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ M. a copy of the summons

and a copy of the Complaint to the following Defendant \_\_\_\_\_

at \_\_\_\_\_

\_\_\_\_\_  
Signature of person accepting service

By: \_\_\_\_\_

Sheriff or other authorized person to serve process

RETURN OF NON-SERVICE OF SUMMONS

I HEREBY CERTIFY THAT I HAVE NOT SERVED THE WITHIN SUMMONS:

To the named Defendant \_\_\_\_\_

because \_\_\_\_\_ is (are) not to be found in this County after diligent search and inquiry for the following

reason(s): \_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

By: \_\_\_\_\_

Sheriff or other authorized person to serve process

IN THE CIRCUIT COURT OF TENNESSEE FOR THE  
THIRTIETH JUDICIAL DISTRICT AT MEMPHIS, SHELBY COUNTY

ADRIANA VILLA,  
PLAINTIFF

V.

EMPIRE TRUCK LINES, INC.,  
DAIMLER TRUST d/b/a EMPIRE TRUCK LINES, INC.  
AND GENE AUTRY BARCLAY, JR.,  
DEFENDANTS



CASE NO: CT-004227-17

DIVISION: VII

DOCKET NO.:

JURY DEMANDED

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COMPLAINT

---

COMES NOW the Plaintiff, Adrianna Villa, by and through her attorney Daryl Andre Gray and files this Complaint and hereby asserts the following causes of action against the Defendants, EMPIRE TRUCK LINES, INC., DAIMLER TRUST d/b/a EMPIRE TRUCK LINES, INC., AND GENE AUTRY BARCLAY, JR.

JURISDICTION AND VENUE

1. Adriana Villa is and was at all times pertinent to this cause of action, an adult resident of Memphis, Shelby County, Tennessee.
2. The named Defendant, Empire Truck Lines, Inc. ("Empire"), is a Texas corporation conducting significant business transactions in the state of Tennessee, and specifically transporting a significant amount of goods through the City of Memphis, State of Tennessee.
3. The named Defendant, Daimler Trust d/b/a Empire Truck Lines, Inc. ("Daimler"), is a Delaware company authorized to do and doing business in Shelby County in the City of Memphis, State of Tennessee.
4. The named Defendant, Gene Autry Barclay, Jr, was in the course and scope of his employment with Empire and/or Daimler at all times relevant to this action.

5. The incident took place in Memphis, Shelby County, Tennessee, injured a resident of Memphis, Shelby County, Tennessee, and was caused by the negligence of these defendants.

#### **FACTS**

6. On or about October 29, 2016, Plaintiff, Adriana Villa, was the driver of a 2010 Dodge Challenger.
7. The vehicle Plaintiff was driving was in the proper lane of travel, observing traffic signs, and was being operated in a safe and prudent manner north bound on Ridgeway Road.
8. At the same time and place, Defendant, Gene Autry Barclay, Jr was driving a 2016 Freightliner Truck owned by Daimler and/or Empire when he struck the left side of the Plaintiff's vehicle.
9. Upon information and belief, Defendant, Empire, at all times relevant hereto, was the direct employer of Gene Autry Barclay, Jr.
10. Plaintiff alleges that as a direct and proximate result of the actions and/or inactions of Gene Autry Barclay, Jr. and his employer Empire and/or Daimler, the Plaintiff suffered severe and permanent damages and injuries.

#### **NEGLIGENCE**

11. Plaintiff charges and alleges that the Defendant Driver, Gene Autry Barclay, Jr was guilty of the following acts of common law negligence, each of which was a direct and proximate cause of Plaintiff's resulting injuries and damages, to wit:
  - a. Negligently failing to exercise that degree of care and caution required of a reasonable and prudent person under the same or similar circumstances;
  - b. Negligently failing to maintain proper control of a vehicle;
  - c. Negligently failing to maintain a proper lookout;

- d. Negligently failing to avoid the occurrence of the collision, which could have been avoided with the exercise of ordinary reasonable care, and the defendant failed to exercise such care.
  - e. Negligently failing to devote full time and attention to the operation of the freightliner truck he was operating at the time of this crash;
  - f. Gross negligence in the careless, reckless, unlawful, and negligent driving and operation of said vehicle with complete indifference to the consequences.
  - g. Negligence per se in that Plaintiff was in the class sought to be protected by the applicable state laws and city ordinances and said negligence per se is a direct and proximate cause of the collision at issue and Plaintiff's resulting injuries and damages;
  - h. Negligently operating a vehicle in an improper manner on the roadway;
  - i. Negligently failing to exercise ordinary and reasonable care to avoid said collision;
  - j. Negligently failing to drive an automobile with due regard for the safety of all other persons on the roadway; and
  - k. Negligently failing to drive an automobile with due regard for the safety of all other persons on the roadway.
12. Plaintiff further charges and alleges that at the time of the collision in question, the following City Ordinances and Statutes of the State of Tennessee were in full force and effect and were violated by Defendant, each and every such act constituting a direct and proximate cause or direct contributing proximate cause of the injuries and damages to Plaintiffs, to wit:

**CITY ORDINANCES**

- |                |  |
|----------------|--|
| Section 24-116 | <b><u>Duty to devote full time and attention to operation of a vehicle.</u></b>                            |
| Section 24-117 | <b><u>Duty to drive at a safe speed, maintain a proper lookout and keep the vehicle under control.</u></b> |

**STATUTE OF THE STATE OF TENNESSEE**

Section 55-8-103 **Required Obedience to Traffic Laws**

Section 55-8-110 **Traffic Control Signal**

Section 55-10-205 **Reckless Driving**

Section 55-8-136 **Driver to exercise Due Care**

13. Plaintiff further charges and alleges that Defendant's aforesaid acts of common law negligence and violations of City Ordinance and Statutes of the State of Tennessee constitute negligence per se in that Plaintiff was in the class sought to be protected by the legislation and said negligence per se is a direct and proximate cause of the collision at issue and Plaintiff's resulting injuries and damages.
14. Plaintiff further charges and alleges that Empire Truck Lines, Inc. and/or Daimler negligently hired, inadequately trained, negligently supervised and negligently retained Gene Autry Barclay, Jr and therefore, Empire Truck Lines, Inc.'s actions and/or failure to act were the direct and proximate cause of Plaintiff's injuries.
15. Plaintiff further alleges that Empire Truck Lines, Inc. was negligent for retaining the service of/or contracting with Gene Autry Barclay, Jr to transport goods within the state of Tennessee and is therefore the direct and proximate cause of Plaintiffs injuries.
16. Plaintiff further alleges that Daimler Trust is jointly liable for the negligence of Empire Truck Lines, Inc., and Gene Autry Barclay, Jr.

**INJURIES AND DAMAGES**

17. Plaintiff charges and alleges that as a direct and proximate result of one, some or all of the aforesaid acts of negligence and statutory violations on the part of the Defendants, that the plaintiff has suffered severe injuries and damages, including but not limited to:
  1. Extensive physical injuries;
  2. Medical expenses;
  3. Past, present, and future physical pain and suffering;

Respectfully Submitted,



**DARYL A. GRAY, ESQ. (TBPR 27781)**

Attorney for Plaintiff

10555 Lake Forest Blvd., Suite 9C

New Orleans, LA 70127

Telephone: (504) 264-5552

Facsimile: (504) 264-5581

Email: daryl@gograylaw.com

**PLEASE SERVE:**

Please Issue Citation and a Certified Copy of this Complaint for Long Arm Service directed to:

GENE AUTRY BARCLAY JR

5205 Fairbanks Drive

Apt. 40

El Paso, TX 79924

Please Issue Citation and a Certified Copy of this Complaint for Long Arm Service directed to:

EMPIRE TRUCK LINES, INC.

Through its Registered Agent:

David R. Acker

10043 Wallisville Rd.,

Houston, TX 77013

DAIMLER TRUST

Through its Registered Agent:

CT Corporation System

800 Gay Street, Ste. 2021

Knoxville, TN 37929



**Tre Hargett**  
Secretary of State

**Division of Business Services**  
**Department of State**  
**State of Tennessee**  
312 Rosa L. Parks AVE, 6th FL  
Nashville, TN 37243-1102

EMPIRE TRUCK LINES INC  
AKA/POE: REGISTERED AGENT DAVID R ACKER  
10043 WALLISVILLE RD  
HOUSTON, TX 77013

10/24/2017

RE: ADRIANA VILLA

VS: EMPIRE TRUCK LINES INC, DAIMLER TRUST D/B/A EMPIRE TRUCK LINES INC, AND GENE  
AUTRY BARCLAY JR

### **Notice of Service**

The enclosed process, notice or demand is hereby officially served upon you by the Tennessee Secretary of State pursuant to Tennessee law. Please refer to the process, notice or demand for details concerning the legal matter. If you have any questions, please contact the clerk of the court that issued the process, notice or demand.

The process, notice or demand may have a court date and time that you must appear to defend yourself or the number of days from the date of service by which you are required to file an answer. Failure to appear in court at the time specified or failure to file an answer in the given time could result in a default judgement being rendered against you for relief sought in the lawsuit.

The Secretary of State's office cannot give you legal advice. If you need legal advice, please consult a private attorney.

Tre Hargett  
Secretary of State

Enclosures: Original Documents

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#### **DOCUMENT INFORMATION**

SOS Summons # : 04940327  
Case #: CT-004227-17  
Certified #: 70171450000228686106

(CIRCUIT/CHANCERY) COURT OF TENNESSEE  
140 ADAMS AVENUE, MEMPHIS, TENNESSEE 38103  
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

## SUMMONS IN CIVIL ACTION

Docket No. CT-004227-17
☒ Lawsuit  
☐ Divorce

Ad Damnum \$ \_\_\_\_\_

ADRIANA VILLA

VS

EMPIRE TRUCK LINES, INC.,  
DAIMLER TRUST d/b/a EMPIRE TRUCK  
LINES, INC., and GENE AUTRY BARCLAY,  
JR.

Plaintiff(s)

Defendant(s)

TO: (Name and Address of Defendant (One defendant per summons))

Empire Truck Lines, Inc.  
Through its Registered Agent:  
David R. Acker  
10043 Wallisville Rd.  
Houston, TX 77013

Method of Service:

- ☐ Certified Mail  
☐ Shelby County Sheriff  
☐ Commissioner of Insurance (\$)  
☒ Secretary of State (\$)  
☐ Other TN County Sheriff (\$)  
☐ Private Process Server  
☐ Other

(\$ Attach Required Fees

You are hereby summoned and required to defend a civil action by filing your answer with the Clerk of the Court and

serving a copy of your answer to the Complaint on Daryl A. Gray

Plaintiff's

attorney, whose address is 10555 Lake Forest Blvd., Ste. 9C, New Orleans, LA 70127

telephone (504) 264-5552 within THIRTY (30) DAYS after this summons has been served upon you, not including the day  
of service. If you fail to do so, a judgment by default may be taken against you for the relief demanded in the Complaint.

JIMMY MOORE, Clerk / DONNA RUSSELL, Clerk and Master

TESTED AND ISSUED

10-16-17

By

, D.C.

TO THE DEFENDANT:

NOTICE; Pursuant to Chapter 919 of the Public Acts of 1980, you are hereby given the following notice:

Tennessee law provides a ten thousand dollar (\$10,000) personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the Clerk of the Court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed. These include items of necessary wearing apparel (clothing) for yourself and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible and school books. Should any of these items be seized, you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer.

FOR AMERICANS WITH DISABILITIES ACT (ADA) ASSISTANCE ONLY, CALL (901) 222-2341

I, JIMMY MOORE / DONNA RUSSELL, Clerk of the Court, Shelby County, Tennessee, certify this to be a true and accurate copy as filed this

10-16 2017

JIMMY MOORE, Clerk / DONNA RUSSELL, Clerk and Master

By

, D.C.

2017 OCT 26 AM 8:52  
CLERK OF THE COURT  
SHELBY COUNTY, TENNESSEE

RETURN OF SERVICE OF SUMMONS

I HEREBY CERTIFY THAT I HAVE SERVED THE WITHIN SUMMONS:

By delivering on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ M. a copy of the summons

and a copy of the Complaint to the following Defendant \_\_\_\_\_

at \_\_\_\_\_

\_\_\_\_\_  
Signature of person accepting service

By: \_\_\_\_\_

Sheriff or other authorized person to serve process

RETURN OF NON-SERVICE OF SUMMONS

I HEREBY CERTIFY THAT I HAVE NOT SERVED THE WITHIN SUMMONS:

To the named Defendant \_\_\_\_\_

because \_\_\_\_\_ is (are) not to be found in this County after diligent search and inquiry for the following

reason(s): \_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_

Sheriff or other authorized person to serve process

IN THE CIRCUIT COURT OF TENNESSEE FOR THE  
THIRTIETH JUDICIAL DISTRICT AT MEMPHIS, SHELBY COUNTY

ADRIANA VILLA,  
PLAINTIFF

V.

EMPIRE TRUCK LINES, INC.,  
DAIMLER TRUST d/b/a EMPIRE TRUCK LINES, INC.  
AND GENE AUTRY BARCLAY, JR.,  
DEFENDANTS

FILED  
OCT 16 2017  
CIRCUIT COURT CLERK  
BY *[Signature]* D.C.

CASE NO: *CT-004227-17*

DIVISION: *VII*

DOCKET NO.:

JURY DEMANDED

---

COMPLAINT

---

COMES NOW the Plaintiff, Adrianna Villa, by and through her attorney Daryl Andre Gray and files this Complaint and hereby asserts the following causes of action against the Defendants, EMPIRE TRUCK LINES, INC., DAIMLER TRUST d/b/a EMPIRE TRUCK LINES, INC., AND GENE AUTRY BARCLAY, JR.

JURISDICTION AND VENUE

1. Adriana Villa is and was at all times pertinent to this cause of action, an adult resident of Memphis, Shelby County, Tennessee.
2. The named Defendant, Empire Truck Lines, Inc. ("Empire"), is a Texas corporation conducting significant business transactions in the state of Tennessee, and specifically transporting a significant amount of goods through the City of Memphis, State of Tennessee.
3. The named Defendant, Daimler Trust d/b/a Empire Truck Lines, Inc. ("Daimler"), is a Delaware company authorized to do and doing business in Shelby County in the City of Memphis, State of Tennessee.
4. The named Defendant, Gene Autry Barclay, Jr, was in the course and scope of his employment with Empire and/or Daimler at all times relevant to this action.

5. The incident took place in Memphis, Shelby County, Tennessee, injured a resident of Memphis, Shelby County, Tennessee, and was caused by the negligence of these defendants.

#### FACTS

6. On or about October 29, 2016, Plaintiff, Adriana Villa, was the driver of a 2010 Dodge Challenger.
7. The vehicle Plaintiff was driving was in the proper lane of travel, observing traffic signs, and was being operated in a safe and prudent manner north bound on Ridgeway Road.
8. At the same time and place, Defendant, Gene Autry Barclay, Jr was driving a 2016 Freightliner Truck owned by Daimler and/or Empire when he struck the left side of the Plaintiff's vehicle.
9. Upon information and belief, Defendant, Empire, at all times relevant hereto, was the direct employer of Gene Autry Barclay, Jr.
10. Plaintiff alleges that as a direct and proximate result of the actions and/or inactions of Gene Autry Barclay, Jr. and his employer Empire and/or Daimler, the Plaintiff suffered severe and permanent damages and injuries.

#### NEGLIGENCE

11. Plaintiff charges and alleges that the Defendant Driver, Gene Autry Barclay, Jr was guilty of the following acts of common law negligence, each of which was a direct and proximate cause of Plaintiff's resulting injuries and damages, to wit:
  - a. Negligently failing to exercise that degree of care and caution required of a reasonable and prudent person under the same or similar circumstances;
  - b. Negligently failing to maintain proper control of a vehicle;
  - c. Negligently failing to maintain a proper lookout;

- d. Negligently failing to avoid the occurrence of the collision, which could have been avoided with the exercise of ordinary reasonable care, and the defendant failed to exercise such care.
  - e. Negligently failing to devote full time and attention to the operation of the freightliner truck he was operating at the time of this crash;
  - f. Gross negligence in the careless, reckless, unlawful, and negligent driving and operation of said vehicle with complete indifference to the consequences.
  - g. Negligence per se in that Plaintiff was in the class sought to be protected by the applicable state laws and city ordinances and said negligence per se is a direct and proximate cause of the collision at issue and Plaintiff's resulting injuries and damages;
  - h. Negligently operating a vehicle in an improper manner on the roadway;
  - i. Negligently failing to exercise ordinary and reasonable care to avoid said collision;
  - j. Negligently failing to drive an automobile with due regard for the safety of all other persons on the roadway; and
  - k. Negligently failing to drive an automobile with due regard for the safety of all other persons on the roadway.
12. Plaintiff further charges and alleges that at the time of the collision in question, the following City Ordinances and Statutes of the State of Tennessee were in full force and effect and were violated by Defendant, each and every such act constituting a direct and proximate cause or direct contributing proximate cause of the injuries and damages to Plaintiffs, to wit:

**CITY ORDINANCES**

- Section 24-116     **Duty to devote full time and attention to operation of a vehicle,**
- Section 24-117     **Duty to drive at a safe speed, maintain a proper lookout and keep the vehicle under control,**

**STATUTE OF THE STATE OF TENNESSEE**

**Section 55-8-103    Required Obedience to Traffic Laws**

**Section 55-8-110    Traffic Control Signal**

**Section 55-10-205   Reckless Driving**

**Section 55-8-136    Driver to exercise Due Care**

13. Plaintiff further charges and alleges that Defendant's aforesaid acts of common law negligence and violations of City Ordinance and Statutes of the State of Tennessee constitute negligence per se in that Plaintiff was in the class sought to be protected by the legislation and said negligence per se is a direct and proximate cause of the collision at issue and Plaintiff's resulting injuries and damages.
14. Plaintiff further charges and alleges that Empire Truck Lines, Inc. and/or Daimler negligently hired, inadequately trained, negligently supervised and negligently retained Gene Autry Barclay, Jr and therefore, Empire Truck Lines, Inc.'s actions and/or failure to act were the direct and proximate cause of Plaintiff's injuries.
15. Plaintiff further alleges that Empire Truck Lines, Inc. was negligent for retaining the service of/or contracting with Gene Autry Barclay, Jr to transport goods within the state of Tennessee and is therefore the direct and proximate cause of Plaintiffs injuries.
16. Plaintiff further alleges that Daimler Trust is jointly liable for the negligence of Empire Truck Lines, Inc., and Gene Autry Barclay, Jr.

**INJURIES AND DAMAGES**

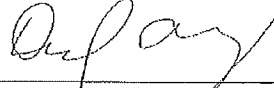
17. Plaintiff charges and alleges that as a direct and proximate result of one, some or all of the aforesaid acts of negligence and statutory violations on the part of the Defendants, that the plaintiff has suffered severe injuries and damages, including but not limited to:
  1. Extensive physical injuries;
  2. Medical expenses;
  3. Past, present, and future physical pain and suffering;

4. Past, present, and future mental anguish;
  5. Past, present, and future loss of enjoyment of life;
  6. Severe fright and shock; and
  7. Out of pocket expenses.
18. Plaintiff charges and alleges that as a direct and proximate result of the negligence on the part of the Defendant, Plaintiff, received serious and painful injuries requiring medical attention and treatment. Plaintiff further alleges that doctors and medical bills were incurred in an effort to relieve the pain, suffering, and discomfort associated with Plaintiff's injuries. Plaintiff submits that all doctor and medical bills so incurred were reasonable and necessary for the treatment of the injuries and that Plaintiff will in the future require further medical treatment and will incur additional medical bills to treat said injuries.

**WHEREFORE, PREMISES CONSIDERED,** Plaintiff respectfully prays:

1. That proper process issue against the Defendants requiring them to plead and answer;
2. That Plaintiff, Adriana Villa be awarded judgment against the Defendants in the amount that truth dictates and justice demands and not to exceed **EIGHT HUNDRED THOUSAND DOLLARS (\$800,000)**, for actual compensatory and punitive damages for the Defendants' gross willful and wanton negligence;
3. That Plaintiff be granted such other relief, general or specific, that this Court deems equitable and just;
4. That the costs of this action be awarded to Plaintiff;
5. That a jury be empaneled to try these issues when joined.

Respectfully Submitted,



**DARYL A. GRAY, ESQ. (TBPR 27781)**

Attorney for Plaintiff

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Email: daryl@gograylaw.com

**PLEASE SERVE:**

Please Issue Citation and a Certified Copy of this Complaint for Long Arm Service directed to:

GENE AUTRY BARCLAY JR

5205 Fairbanks Drive

Apt. 40

El Paso, TX 79924

Please Issue Citation and a Certified Copy of this Complaint for Long Arm Service directed to:

EMPIRE TRUCK LINES, INC.

Through its Registered Agent:

David R. Acker

10043 Wallisville Rd.,

Houston, TX 77013

DAIMLER TRUST

Through its Registered Agent:

CT Corporation System

800 Gay Street, Ste. 2021

Knoxville, TN 37929